

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: REAL PROPERTY TAX SERVICES

DATE: APRIL 28, 2008

COMMITTEE MEMBERS PRESENT: OTHERS PRESENT:

SUPERVISORS	BELDEN	MICHAEL SWAN, DIRECTOR, REAL PROPERTY TAX SERVICES
	HASKELL	
	BENTLEY	FREDERICK MONROE, CHAIRMAN
	THOMAS	PAUL DUSEK, COUNTY ATTORNEY
	GOODSPEED	AMY BARTLETT, FIRST ASSISTANT COUNTY ATTORNEY
	STRAINER	TRISH NENNINGER, SECOND ASSISTANT COUNTY ATTORNEY

COMMITTEE MEMBER ABSENT:

SUPERVISOR	MERLINO	HAL PAYNE, COMMISSIONER OF ADMINISTRATIVE & FISCAL SERVICES
		JOAN SADY, CLERK OF THE BOARD
		KEVIN GERAGHTY, BUDGET OFFICER
		SUPERVISOR STEC
		JOANN MCKINSTRY, DEPUTY COMMISSIONER OF ADMINISTRATIVE & FISCAL SERVICES
		TODD LUNT, DIRECTOR OF HUMAN RESOURCES
		CHARLENE DiRESTA, LEGISLATIVE OFFICE SPECIALIST

Mr. Belden called the meeting of the Real Property Tax Services Committee to order at 11:16 a.m.

Motion was made by Mr. Thomas, seconded by Mr. Strainer and carried unanimously to approve the minutes of the previous Committee meeting, subject to correction by the Clerk of the Board.

Privilege of the floor was extended to Michael Swan, Director of Real Property Tax Services, who distributed copies of his agenda to the Committee members; *a copy of the agenda is on file with the minutes.*

Mr. Swan noted that there were no corrections to the tax rolls from the Warren County Treasurer's Office this month.

Mr. Swan apprised that the information that had been requested by the Committee at the previous meeting, pertaining to the properties in Warren County with possible contamination, that had delinquent taxes, was included in the agenda packet. He added that the four properties were as follows:

- ▶ The Mullen property in the Town of Queensbury, which was previously a foundry and was currently vacant, with back taxes in the amount of \$130,814.45, a current value of \$50,000 and an anticipated value of \$290,000;
- ▶ The Mosher property in the Town of Johnsbury, which was previously a gas station and was currently a truck repair shop, with back taxes in the amount of \$59,881.35, a current value of \$0 and an anticipated value of \$100,000;
- ▶ The Sawyer property in the Town of Hague, which was previously a town landfill and was currently a tire dump, with back taxes in the amount of \$7,675.60, a current value of \$0 and an anticipated value of \$30,000; and
- ▶ The Eastman property in the Town of Chester, which was previously an auto junkyard and was currently an auto body shop, with back taxes in the amount of \$55,740.87, a current value of \$40,000 and an anticipated value of \$180,000.

Mr. Strainer stated that David Mullen, the owner of the property in the Town of Queensbury, was currently using the property. Mr. Belden asked if the owners had ever requested a payment plan with the County and Mr. Swan responded that the owner of the property in the Town of Chester had originally paid 25% of the back taxes but had not made any payments since then. Mr. Swan noted that the current values on the properties were estimates, since contamination levels were unknown. Mr. Strainer noted that the owner of the Mullen property owed in excess of \$130,000. Mr. Stec asked if there were known contamination issues with the Mullen property and Mr. Swan responded that it was unknown; however, he added, the property had previously been used as a foundry and chemicals could be present in the soil.

Mr. Belden asked if the properties could be put up for sale as is and Mr. Swan responded that if the County foreclosed on the properties, the Department of Environmental Conservation (DEC) would require them to clean them up. Mr. Belden apprised that the County foreclosed on homes where back taxes were owed and yet these four properties continued not paying and still retained ownership. Mr. Haskell agreed that the County should do something and added that the owners were still using the properties. Mr. Belden noted that some of the properties housed businesses and were making money. Mr. Goodspeed expounded that if the County foreclosed on the properties and there was contamination, it would cost \$500,000 to \$600,000 to clean up each property.

Mr. Geraghty said that the current owners were not cleaning up the properties and added that two of the owners were operating businesses on the properties. Mr. Goodspeed asked if the County would be foreclosing with the expectation that the Brownfields Grant would fund the clean up or that the County would pay for

it. Mr. Geraghty stated that if the County foreclosed on a property that was operating a business, the owner would find a way to pay the back taxes. Mr. Swan said that the County had taken title of a property in the Town of Lake Luzerne that was a former filling station and after the County took possession the DEC had demanded that the County clean it up. He added that the County had been fortunate and had been able to back out of the transaction.

Paul Dusek, County Attorney, and Trish Nenninger, Second Assistant County Attorney, entered the meeting at 11:21 a.m.

In answer to a question concerning the cost to the owner for clean up of the property in the Town of Lake Luzerne, Mr. Swan responded that the contamination had been minimal and the cost had been approximately \$20,000 to \$30,000. Mr. Belden asked if the owner had sold the property after it had been cleaned up and Mr. Swan replied affirmatively.

Paul Dusek, County Attorney, stated that he was familiar with the property. He added that the County had foreclosed on the property and had passed ownership over to the new owner. He said that the risk for taking possession of the property had been minimal and mostly involved removal of the underground gas tanks. He added that the new owner had been able to make a profit on the property because he took care of the clean up himself. He stated that he was pleased that the County only had four properties with possible contamination remaining. He said that the Mosher property would be fairly low risk because it was also a gas station; however, he added, the risk might be increased by the fact that it was a truck repair facility. He apprised that he had concerns with the Sawyer property in the Town of Hague because it was previously a town landfill. He recommended that the County not foreclose on that property. He stated that the Eastman property in the Town of Chester had previously been an auto junkyard for many years and was currently an auto repair shop. He added that he also had concerns with the County foreclosing on that property. He expounded that the County could pursue a Brownfields Grant for the Mullen property; however, he added, the County would need to be prepared to put up 10% of the clean up costs. Mr. Bentley noted that the Eastman property was listed on the 2008 foreclosure list and Mr. Dusek responded that if it was on the list it would be removed before the final list was completed.

Mr. Thomas asked if the County could obtain a court injunction to bar the owners from the properties until the back taxes were paid. Mr. Dusek responded that until the County took title of the properties, the current owners were still the lawful owners of the properties. He added that the DEC could go after the current owners and it could be beneficial to contact them to see why they were not going after the owners. Mr. Dusek stated that the County would not take title but the

DEC could step in. He added that it was the responsibility of the DEC to enforce the environmental laws.

Amy Bartlett, First Assistant County Attorney, entered the meeting at 11:28 a.m.

In answer to a question concerning how the DEC would get involved, Mr. Dusek responded that the DEC would clean up the property, bill the owners of the property for the cost of the clean up and place a lien on the property until that bill was paid. He said that the owners usually walked away from the property due to the fact that they were unable to pay the lien. He added that once the properties were cleaned the County could then foreclose. He stated that the DEC had the authority to take title of the property although they typically did not. Mr. Strainer asked if the DEC would be liable to pay the taxes if they took title of the properties and Mr. Dusek replied affirmatively. Chairman Monroe apprised that at some point the tax lien would be for more than the value of the property.

Chairman Monroe asked what the procedure was for the Brownfields Grant funding. Mr. Dusek responded that the County would start a foreclosure action on the property, then a motion would be made in court for the right to inspect the property. He added that when the report was received from the inspection, the County would then proceed with the clean up. He informed the Committee that the County would have to pay 10% of the cost of the clean up. He clarified that the County would pay the full amount of the clean up and would receive a reimbursement from New York State.

Mr. Geraghty mentioned that funds might be available through the oil spill fund for the clean up of the property that was a gas station. Mr. Dusek suggested that a request be made to the DEC and added that the Chairman could go to the Senator and Assemblywoman and request that they exert some pressure. He noted that the clean up was essentially the DEC's problem and added that once the County took title, it became their responsibility. He said that third parties could also pursue litigation if they felt that their property was being polluted by property that the County owned.

Mr. Belden suggested that the County contact the DEC and request that these properties be tested. Chairman Monroe apprised that there were enforcement actions involved with the property in the Town of Chester with both the DEC and the APA (Adirondack Park Agency). He suggested that the County request reports from both agencies on that property, since they had both inspected it. Trish Nenninger, Second Assistant County Attorney, stated that they had contacted the DEC and had been informed that the parcels needed to be brought to their attention before they would consider involvement. She added that the DEC had said that the County should talk to them about each parcel through a FOIL

(Freedom of Information Law) request and then the County and the DEC could meet and determine how to proceed.

Discussion ensued.

Mr. Haskell asked if the County had requested that the DEC get involved in these properties and Mrs. Nenninger responded that the conversation with the DEC so far had been to receive information on how the DEC would get involved in properties. The DEC typically got involved, she continued, when there was a report, an active spill or if they were brought in by the municipality. She noted that the initial step was to make a request for the DEC to see if there was any information in the system on any of these parcels. She added that the DEC typically got involved with parcels where the contamination was well known. She said that the DEC was willing to meet with Warren County to discuss these parcels further.

Motion was made by Mr. Haskell and seconded by Mr. Goodspeed that representatives from Warren County meet with the DEC concerning the four parcels with possible contamination.

Discussion ensued.

Chairman Monroe said that if the County tried to clean up a property they should not have to become part of the chain of liability and added that the issue should be referred to the Legislative & Rules Committee. Mr. Dusek said that the legislature should allow a municipality to foreclose without being liable for the contamination on the site. He added that the State's response would be that the Brownfields law allowed the municipality to inspect the property during the foreclosure action. He further added that the flaw in that law was that the municipality had to undertake the investigation and pay the costs. He said he would like for the State to allow the municipality to foreclose without taking title and get an order of the court that would allow the property to be directed to a third party that was willing to take the risk to do the clean up. He added that if that was possible the property would then be in the hands of someone who was willing to do something about the contamination. Mr. Swan stated that this type of legislation had been proposed several times but had never cleared the Committee. Mr. Dusek said that the County could meet with the DEC to try to encourage them to do something about these properties or to find out why they would not. He stated that if the County was not satisfied with the DEC's answer, they could go to the State representatives and try to exert some pressure.

Mr. Belden called the question and the motion was carried unanimously to authorize representatives from Warren County to meet with the DEC concerning

the four parcels with possible contamination.

Mr. Swan apprised that the next item on the agenda was the impact to the County if the assessment limit for the existing Veteran's Exemption were increased from \$180,000 to \$240,000, which he estimated would be approximately \$30,000. Mr. Stec informed the Committee that the Town of Queensbury would hold a public hearing next week and intended to approve the maximum for both the existing Veteran's Exemption and the Cold War Veteran's Exemption.

Motion was made by Mr. Haskell, seconded by Mr. Bentley and carried unanimously to increase the assessment limit on the Alternative Veteran's Exemption to the maximum of \$240,000. *A copy of the resolution request is on file with the minutes and the necessary resolution was authorized for the May 16, 2008 Board meeting.*

Mr. Swan apprised that after discussions with Todd Lunt, Director of Human Resources, he had decided to stop having Lexi Gilgallon, Deputy Director, punch a timecard. He added that it was a salaried position and was not paid on an hourly basis. He said that if Ms. Gilgallon worked a nine hour day and punched a timecard, the County might be obligated to pay her overtime. Mr. Lunt stated that Ms. Gilgallon had asked if she was required to punch a timecard. He added that it was up to the Supervisor's discretion which employees were required to punch a timecard. He noted that the position was exempt and was not entitled to overtime. Ms. Gilgallon had assumed that if she punched the clock, he continued, she would be entitled to overtime. He said that he had informed Ms. Gilgallon that was not the case and added that punching the clock merely kept track of the hours that were worked. He added that he had suggested that Mr. Swan present the issue to the Committee for review. He noted that he had been asked to punch the timecard when he started working for the County and added that his position was also exempt from overtime. He added that the County could look at this issue and make decisions that would be consistent throughout the County. Mr. Dusek recommended that the issue should be looked at on a Countywide basis as opposed to a Department by Department basis. He added that the County could turn a salaried position into a position that was entitled to overtime based on the way the position was handled. He apprised that under the law there was a safe harbor, where the County could take steps to ensure that there was no risk of turning a salaried position into one that was entitled to overtime. He said that if an employee was not entitled to overtime, merely punching the timecard would not entitle them to receive overtime; however, if there was an employee who was marginal and certain steps were taken as far as how the time accounting were handled, the County could actually turn the salaried position into one that was entitled to overtime. He said that he recommended that a policy be established

and referred to the Personnel Committee. He added that the County would want to have certain protections in place. He stated that some businesses only required the employees to punch the timecard at the start of the day, for example.

It was the consensus of the Committee that the Human Resources Director establish a Countywide policy for salaried employees accounting for time worked to be presented to the Personnel Committee at the June 11, 2008 meeting.

Mr. Swan expounded that New York State had a program that paid \$.50 for every property transfer that was entered into their database. He added that this program could generate an additional \$2,000 to \$3,000 in revenue each year for the County. He stated that since the Real Property Tax Services Department was no longer maintaining a property record system, there would be time for the Real Property Tax Clerk to enter the necessary information into the database. He requested the Committee's authorization to research the program and return to them with further information. It was the consensus of the Committee that Mr. Swan should research the State program and return to the Committee with further information.

Mr. Swan informed the Committee that the contract to complete the valuation work for the Town of Warrensburg would be completed by the end of May. He added that he hoped that Mr. Geraghty and the Warrensburg Town Board were satisfied with the work that had been completed. He noted that the Department would bill the Town of Warrensburg \$12,000 for their services at the end of May.

Mr. Belden stated that the Committee would need to enter into executive session to discuss the employment history of a particular person.

Motion was made by Mr. Haskell, seconded by Mr. Bentley and carried unanimously, that executive session be declared pursuant to Section 105 (f) of the Public Officers Law.

Executive session was declared from 11:52 a.m. to 12:20 p.m.

The Committee reconvened and Mr. Belden noted that no action was necessary pursuant to the executive session.

As there was no further business to come before the Real Property Tax Services Committee, on motion made by Mr. Haskell and seconded by Mr. Strainer, Mr. Belden adjourned the meeting at 12:21 p.m.

Respectfully submitted,

Charlene DiResta, Legislative Office Specialist